

Attorneys General in calling for the prohibition of 800 information service charges on telephone bills. We make this proposal for several reasons. First, the latest fraud involving the ANI-PIN number shows that the telephone bill remains a very coercive collection tool for the information providers. Complaints to our office show that carriers and others continued to inform telephone subscribers that they must pay for the billed charges because "the calls originated from your phone." Second, the availability of the phone bill as a collection device is a powerful spur to new and creative ways to defraud the subscriber. The history of pay-per-call regulation has been the migration of unscrupulous providers to methods or technologies which permit the charging of unauthorized calls to the telephone subscriber. If the target, i.e. the telephone subscriber, is eliminated from the picture, the migration to new technologies may be eliminated as well. The prohibition of billing on the subscriber's telephone bill will eliminate the attractive target. Third, based upon preexisting practices, telephone subscribers are conditioned with respect to 800 numbers. They believe that such calls are free but that goods or services may be purchased through the number by means of general-use credit cards. Elimination of telephone bill charges will be consistent with the telephone subscribers' general understanding of the 800 number service.

This proposal would not jeopardize the information services industry. Indeed, the telephone bill would still be available for pay-per-call services accessed through a 900 number as long as rules are properly observed. In addition, the 800 number could continue to be used for services billed to general-use credit cards.¹⁴

B. Subscription Agreement Requirements.

In addition to requiring that subscription agreements are made in writing, the Commission should consider imposing further requirements to insure informed consent on the part of the party ultimately charged for information services.

14. It may be appropriate to consider whether 800 number information service charges should be limited to credit card transactions. In the absence of this type of prohibition, IPs and others may continue to utilize the presubscription exemption in unanticipated ways that may result in unauthorized charges for the telephone subscriber.

1. Subscription agreements must be signed by the billed party.

As stated above, historically, some unscrupulous information providers have sought out methodologies which produce unauthorized calls. We are afraid that without this requirement, scam operators will devise a way to produce a written document which is still unknown to the party who is ultimately billed. An actual signature on a tangible document will ensure that the billed party has, in fact, agreed to be charged for information calls.

2. The subscription agreement must be mailed to the address of the party to be billed.

While the Commission's proposed rule implies that the charged party will receive a copy of the agreement, this obligation on the part of the information provider should be made explicit.

3. The billing entity must possess a copy of the agreement prior to billing information charges.

According to the Commission's proposed rule, carriers that bill for presubscribed services, regardless of access method, must possess evidence of the agreement as a precondition to collection efforts. This rule should be clarified to require that billers possess an executed copy of the agreement. By extending billing and collection services to pay-per-call providers, telephone carriers function more like a finance company and a collection agency than a common carrier of telecommunications service. Therefore, requiring carriers to have the presubscription agreement on file prior to billing for a charge to an 800 number is not unreasonable.

4. Presubscription agreements should contain disclosures.

Because the presubscription agreement represents an exemption from pay-per-call disclosure requirements, such agreements should contain all the information which must appear in print advertisements about pay-per-call service. Since presubscription agreements will be documented in writing, the agreement should set forth additional information such as is required for print advertisements.

C. Definition Of Pay-Per-Call Services.

The definition of pay-per-call services, § 64.1501(a), should be modified to remove § 64.1501(a)(3) requirement that pay-per-call services are accessed through a 900 number. As described above, many of the FCC and FTC rules are limited in their application to "pay-per-call services." There appears to be no reason to differentiate pay-per-call services obtained via a 900 number from indistinguishable services accessed by an 800 number or other form of technology. Thus, the limitation of § 64.1501(a) to 900 numbers needlessly truncates the protection of FTC and FCC rules otherwise applicable to an equivalent fact situation. For example, § 64.1514 seeks to prohibit in advertisements the use of audible tones which complete a call. However, this prohibition is unnecessarily limited to pay-per-call services, i.e., 900 number advertisements. Surely, the use of such tone methodology is wrong regardless of the access technology. In addition, elimination of the 900 limitation in the pay-per-call definition may alleviate the attractiveness of other technologies to unscrupulous providers.

D. Cross-Ownership Of Common Carriers And Information Providers.

On page 14 of its Order on Reconsideration the Commission asked commenters to consider whether the rules adequately guard against deception, particularly when an IP and common carrier are commonly owned. Specifically, the Commission was interested in determining whether § 64.1504 should be modified to prohibit immediate activation of a "credit card."

The MN-OAG shares the Commission's concern. First, we recommend that § 64.1504 be amended to prohibit activation of a credit card by means of an 800 number. Even if ANI is not used, the use of an 800 number to authorize instant credit could result in telephone subscriber unauthorized charges for information services. Instead of ANI, the calling party simply gives the IP the telephone number of the calling phone (ANI could confirm the number). The IP would then issue a PIN number and the "credit" transaction would be

complete with no guarantee that the telephone subscriber had any knowledge of the credit arrangement. Therefore, the extension of credit in an 800 number context should be prohibited.

There are additional problems with cross-ownership. The FCC rules are premised on oversight and enforcement on the part of common carriers. When common carriers and IPs are synonymous, the common carriers incentive to enforce the rules are obviously diminished. Additionally, the definition of pay-per-call is premised on the charge for the pay-per-call exceeding the "cost" of the call. § 64.1501(a)(2). If the "common carrier" provides only IP access services to IPs owned by it, it could file tariffs much in excess of its underlying costs. It could then claim that the tariffed rate represent the cost of the information service call and that, therefore, the calls are not pay-per-call services.¹⁵

15. This is exactly what happened with 800 collect calls, subsequently prohibited by § 64.1504(d).

CONCLUSION

While the TDDRA and the rules initially adopted have curbed abuses associated with 900 numbers, telephone subscribers continue to receive unanticipated charges for unauthorized calls. As the discussion of the Minnesota experience with 800 number information services shows, unscrupulous providers are becoming increasingly agile and inventive. Therefore, the Minnesota Attorney General, urges the Commission to adopt the proposed rule modification along with the additional recommendations described in Part IV.

Dated: October 10, 1994

Respectfully submitted,

HUBERT H. HUMPHREY III
Attorney General
State of Minnesota



GARY R. CUNNINGHAM
Assistant Attorney General

1200 NCL Tower
445 Minnesota Street
St. Paul, Minnesota 55101-2130
(612) 297-4611 (Voice)
(612) 296-1410 (TDD)



CONVENIENCE STORES

EXHIBIT

1

Page 1 of 7

State Attorney Generals Office
Consumer Division
1400 NCL Tower
445 Minnesota Street
St. Paul, MN 55101

To Whom It May Concern:

On December 25 and 26, 1993, unauthorized calls were made from one of my stores to a 1-900 number at a cost of \$90.28 to the company. A copy of the statement is enclosed.

Also enclosed are copies of the correspondence that have taken place since that time. As you can see, we are very upset that mix-ups like this can occur and leave us, as business owners, taxpayers, and/or private citizens, holding the bag.

Must we be forced to endure the trash that we are subjected to through all the airwaves? We can turn off our television sets when we are dissatisfied or offended with the content. But, it seems we are at the mercy of these companies that make the rules to protect the culprits and have nothing to offer the wronged parties.

Telephones play such important roles in our society and will continue to be more valuable to us in the future. More and more responsibilities will be given to telephone companies. Can we hope to expect that more care will be taken by the companies when they receive the increased responsibilities?

It is up to us to let you know that some of the laws and regulations need to be changed to protect the "little guy". So, we are doing that at this time. Please take all this information into consideration so that the rules can be changed now or new ones placed into effect in the future. We don't want the wheels of change to become so big or gain so much uncontrolled momentum as to crush the people they are trying to serve.

Sincerely,

KJ/rr
encl.

PAGE 1 OF 1
 ACCOUNT NUMBER [REDACTED]
 BILLING DATE JAN 28 1994

BILLING QUESTIONS OR GENERAL INQUIRIES (NO CHARGE) 1 800-748-4309

ITEMIZED CALLS

NO.	TIME	PLACE	AREA-NUMBER	*	MIN	T
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CALLING CARD CALLS

AMERICAN TELNET

DEC 25	1.	940PM	TO NORTH DADE FL	305 936-5244			
			FR STCROIXBCH MN	612 [REDACTED]	NS	4.0 A	11.97 ✓
DEC 25	2.	945PM	TO NORTH DADE FL	305 936-5244			
			FR STCROIXBCH MN	612 [REDACTED]	NS	5.0 A	15.96 ✓
DEC 26	3.	820PM	TO NORTH DADE FL	305 936-5244			
			FR STCROIXBCH MN	612 [REDACTED]	NS	12.0 A	43.89 ✓
DEC 26	4.	832PM	TO NORTH DADE FL	305 936-5244			
			FR STCROIXBCH MN	612 [REDACTED]	NS	3.0 A	7.98 ✓
DEC 26	5.	834PM	TO NORTH DADE FL	305 936-5244			
			FR STCROIXBCH MN	612 [REDACTED]	NS	2.0 A	2.50 ✓
(CALLING CARD SUBTOTAL						82.30)

*-RATE APPLIED
 NS-NITE/WKEND STATION
 T-TAX RATE APPLIED - A- 9.50%

TOTAL ITEMIZED CALLS **82.30**

TAX- FED 2.47 STATE 5.51 7.98

TOTAL LONG DISTANCE BILLING CO. CHARGES (INCL TAX) **90.28**

THIS PORTION OF YOUR BILL IS PROVIDED AS A SERVICE TO LONG DISTANCE BILLING CO..
 THERE IS NO CONNECTION BETWEEN U S WEST COMMUNICATIONS AND LONG DISTANCE BILLING CO..

*4001 S. Decatur
 # 426
 Las Vegas NV
 89103*

February 14, 1994

Long Distance Billing Company
4001 South Decatur
#426
Las Vegas, NV 89103

ACCT: [REDACTED]

To Whom It May Concern:

This letter is in reference to the billing of 1/28/94 for \$90.28.

We are a chain of convenience stores and the number listed above belongs to one of our stores. No one has the authorization to make long distance calls of any sort from any of our telephones.

Therefore, in order for you to be paid, we need to know who the calling card and/or PIN number belongs to, so that we may direct this bill to them. If you cannot give us this information, you will need to bill them directly, as [REDACTED] will not be paying for this bill.

In addition, this is your authorization to place a block at this number so that no further calls of this nature are placed.

Please let us know if any further action is required on our part. Otherwise I trust that this has been taken care of as requested.

Sincerely,

[REDACTED]

KJ/rr
cc- U. S. West Communications



AMERICAN TELNET

P.O. Box 1321 - Hallandale, Florida 33009-1321

EXHIBIT
1
Page 4 of 7

Date: 3/4/93

Dear [REDACTED]

We are in receipt of your letter regarding American TelNet, Inc. charges that have appeared on your telephone bill.

Please be advised that we cannot research your account without the telephone bill on which the specific call detail appears.

Also, having been provided with the telephone bill, we will be able to block your telephone number from having future access to any of American TelNet, Inc.'s services.

For instructions on immediate blocking, you may call the American TelNet, Inc. automated customer service line at **1-800-204-2569**. The call is toll free and you must call from the telephone that you wish to block.

Thank you,

CUSTOMER SERVICE DEPT.
AMERICAN TELNET, INC.



AMERICAN TELNET

P.O. Box 1321 - Hallandale, Florida 33009-1321

EXHIBIT
1
Page 5 of 7

Date: 3-14-94.

Dear: [REDACTED]

In response to your letter, the following is an explanation of how the calling card charges appeared on your home telephone number.

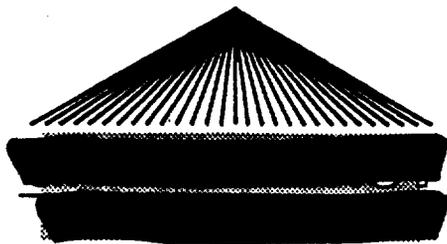
Your telephone was used to call American TelNet and request, through a voice-mail system, a calling card. Once this card number is obtained, it may be used for any service which accepts the American TelNet calling card.

All charges placed on the calling card appear on your local telephone bill. To protect the phone subscriber from fraudulent use, calling card numbers issued on one phone may not be used on any other phone. All subsequent calls **MUST** be placed from the same phone number which the card was originally issued. For example, if the subscriber called from (212) 555-1234, and was issued a calling card number, that card number may **ONLY BE USED** from (212) 555-1234. American TelNet does **NOT** preserve the name or voice of any individual receiving a calling card number.

Per your request, we have blocked future access to all American TelNet services on your telephone.

Sincerely,

CUSTOMER SERVICE
AMERICAN TELNET, INC.



April 1, 1994

American TelNet
P. O. Box 1321
Hallandale, FL 33009-1321

RE: Letter of 3/14/94

To Whom It May Concern:

First of all, let me make it perfectly clear, once again, that the calls in question were not made from my home or any other residential phone.

I am the owner of 10 convenience stores in the Minneapolis/St. Paul area. I find it extremely disturbing that just anyone can come into a privately owned residence, whether it be a home or place of business, and establish a calling card simply through a voice mail request. Even more upsetting is the fact that you have no method of tracing these calls and/or callers-authorized or not.

It is appalling that you have protection for fraudulent use for any phantom subscriber, but fail to have a system to protect the person incorrectly charged for these unauthorized calls. As long as you continue to offer these services and cannot keep a closer handle on this, you may be forced to absorb more of the costs incurred through your ineptness.

We feel that our privacy as well as our integrity has been violated. If we leave ourselves open to this sort of treatment without voicing our concerns, we would be condoning this form of communication piracy. Policies with loopholes so big you could walk through them leave us to understand why incidents like Phonegate can happen.

Page 2 - [REDACTED]

In closing let me make it clear that the balance due will not be paid. We feel so strongly about the lack of consideration we, as innocent customers, received, that we have notified the State Attorney General, the Better Business Bureau, and our local congressmen. With all the new technology and innovations on the horizon in the area of telecommunications, it really is too bad that a few companies leave so much to chance, at the expense of the people that keep them in business.

Sincerely,

Kenneth Jedneak, President

KJ/rr

encl.

cc-State Att. General, Hubert H. Humphrey, III

Senator Don Betzold

Representative Brian Bergson

Better Business Bureau of MN

AMERICAN TELNET BILLING SERVS.
P.O. Box 790930
SAN ANTONIO, TEXAS 78279-0930

EXHIBIT

2

DATE: 07/12/94

[REDACTED]

RE: Account number [REDACTED]

Amount disputed \$292.43 plus tax

Bill Date 07/12/94

Dear Customer:

In reference to the above account number, bill date, and disputed amount, AMERICAN TELNET BILLING SERVS cannot issue credit due to the following:

SOMEONE WITH ACCESS TO YOUR TELEPHONE DIALED A 1-800 NUMBER TO REQUEST OUR SERVICES. OUR COMPUTER RETAINED THE TELEPHONE NUMBER FROM WHICH THE CALL ORIGINATED. THE CALLING PARTY WAS INSTRUCTED TO PRESS THE STAR KEY TO RECEIVE A FREE CALLING CARD NUMBER (THE LAST FOUR DIGITS OF THE ORIGINATING NUMBER + A FOUR-DIGIT PIN CODE). THE CALLER WAS INSTRUCTED TO LEAVE A VOICE-CAPTURE MESSAGE STATING NAME & BIRTHDATE (THIS INFORMATION IS NOT MANDATORY). THE CALLER WAS THEN INSTRUCTED TO HANG UP & REDIAL THE 800 NUMBER TO USE THE CALLING CARD NUMBER TO RECEIVE SERVICE. SERVICE CAN ONLY ORIGINATE FROM THE NUMBER TO WHICH THE CALLING CARD WAS ASSIGNED. ALTHOUGH YOU ARE RESPONSIBLE FOR PAYMENT OF CHARGES, NO FURTHER SERVICE WILL BE ALLOWED FROM OUR FACILITIES.

If you have any questions and/or comments relating to this inquiry and the subsequent results, please contact one of our Customer Service Representatives at 1-800-460-0307. Our business hours are Monday through Friday, 8 a.m. to 6 p.m. Central Standard Time.

DISCONNECTION NOTICE

EXHIBIT
3

USWEST COMMUNICATIONS

ACCOUNT NUMBER [REDACTED]

CUSTOMER SERVICES
PHONE NUMBER IS 800 244-1111

[REDACTED]

MAIL PAYMENT TO:
U S WEST COMMUNICATIONS
PO BOX 1301
MINNEAPOLIS, MN 55483

Our records indicate that there is a total past due amount of \$3,284.21 on your account. To avoid a temporary disconnection of your local and/or long distance service, full payment must be mailed immediately to reach us by 7- 1-94. A restoral charge of \$17.00 per line and a security deposit may apply to re-establish service.

As a valued customer of U S WEST Communications, your business is appreciated. We also understand that occasionally, making timely payment on a monthly bill can be unintentionally overlooked. If you have already made full payment, please disregard this notice. If you cannot mail the full amount, please call for acceptable payment arrangements.

For your review, below is a breakdown of your charges. Those services subject to temporary disconnection are shown in BOLD PRINT. Thank you for your prompt attention.

U S WEST COMMUNICATIONS	\$40.63	LONG DISTANCE BILLING CO.	\$386.97
AT&T	\$8.30	AMERICAN TELNET, INC.	\$157.84
INTEGRETEL, INC	\$666.24	OPERATOR ASSISTANCE NETWK	\$110.27
TELAMERICA COMM. INC.	\$1,899.67	ZERO PLUS DIALING INC	\$14.29
		TOTAL AMOUNT DUE	\$3,284.21

ACCOUNT NUMBER [REDACTED]

U S WEST COMMUNICATIONS
PO BOX 1301
MINNEAPOLIS, MN 55483

TOTAL AMOUNT DUE \$3,284.21

~~720211370207020304020 00827 030271 000000000000 000204113 5700~~



Voice Mail Dating

(800)747-4175

Directly from any phone, you can search for dates 24 hours daily or place a personal voice mail ad for yourself. There are several exciting features under option #4 to help you meet men or women in your area of choice:

- (1) According to the area code you select, you can scan voice mail greetings from other singles. Home phone numbers are often given in this unsensored greeting. You can also leave a response in their voice mail box for them to retrieve.
- (2) You can easily establish your personal voice mail box for others to hear and respond.



When you call 1-800-747-4175, you can charge the call to the phone bill of the phone you're using. Go ahead, call from work & let your boss pay for it! This is possible with a free calling card number you can obtain by calling 1-800-747-4175 & immediately pressing the star (*) button. From the bill it isn't possible to tell who made the call & for what service.



All calls are from \$1.49-4.99/minute & can be charged to a Mastercard, Visa, or telephone bill via the free calling card number. Because this is extremely sexually explicit, you must be at least 18 years of age. If you're uninterested in this dating service, please pass it on. Also available:
1-202-748-2049. Provided by Malibu Media.

"Hey sexy, you've just connected to the hottest phone line in America!"

The Joy of Phone Sex

(800)632-0649

Directly from any phone, you can call us 24 hours daily to talk about those erotic & romantic things that your heart desires. When you call 1-800-632-0649, you can charge the call to the phone bill of the phone you're using. Go ahead, call from work & let your boss pay for it! This is possible with a free calling card number you can obtain by calling 1-800-632-0649 & immediately pressing the star (*) button. From the bill it isn't possible to tell who made the call & for what service.

There are several exciting options to help make your time more enjoyable:

- (1) Sexy recorded phone fantasies that allow you to relax and just listen regardless of where you are calling from. Try this from work!
- (2) Live 1-on-1 hot phone talk. This can get as raunchy as you wish.
- (3) Double the slut action with two live girls doing whatever you request. Such smut sounds great on a speaker phone!
- (4) Contact local single men or women through our voice mail dating service. You can also place a voice mail message for everyone to hear & respond.
- (5) Live party line with singles in your area. They're ready to meet you tonight!

All calls are from \$1.49-4.99/minute & can be charged to a Mastercard, Visa, or telephone bill via the free calling card number. Because this is extremely sexually explicit, you must be at least 18 years of age. If you're uninterested in this service, please pass it on. Also available are 1-800-743-2049 & 1-800-747-4175. Provided by Malibu Media.

"Hey sexy, you've just connected to the hottest phone line in America!"

800 Pay-Per-Call Issue Description

Last August, the FCC and FTC adopted rule changes prohibiting the use of 800 numbers for pay-per-call or "collect" services. Information providers are only allowed to assess information service charges against 800 calls where they have established previous subscription agreements, or where callers complete the transactions using credit or charge cards.

Some adult entertainment and information providers have found ways to skirt these regulations. Over the past few months, we've seen growing problems with 800 fraud in which toll-free calls are turned into 900-like pay-per-calls.

Using third-party billers, a caller's ANI is captured and used to establish a billing record; a PIN is generated on the spot and assigned to the caller for future use. Future calls, made from any phone, are charged to the original phone number. Problems arise because increasingly callers have no intention of paying for the calls, or they are unauthorized or unable to enter into contractual arrangements. It is nearly impossible to trace these perpetrators, leaving firms, institutions and households at risk with large and growing pay-per-call bills.

Recommended Consumer Action

Consumers should notify their long distance carriers of any suspected infractions. All legitimate charges should be paid. However, if consumers question the correctness of a bill, they should challenge the charge. Under FCC regulations, local phone companies may not cut off phone service for non-payment of disputed charges.

AT&T's Steps to Stop 800 Fraud

- AT&T's efforts aim to eliminate billing fraud from being perpetrated on unsuspecting consumers. Based on last year's FCC/FTC action, AT&T believes these practices to be highly illegal, and in violation of AT&T's tariffs.
- AT&T investigates complaints and issues disconnect notices where appropriate and where our investigations demonstrate a violation of the FCC rules on billing for 800 calls. We have disconnected 800 number customers for abuse.
- We have filed a tariff provision that makes it a tariff violation to improperly bill for 800 calls. See attached. Moreover, we have a pending tariff application that will permit us to disconnect unlawful service with one day's notice.
- AT&T welcomes the opportunity to help investigate complaints and determine the extent to which the existing law applies to their fact patterns. If they are not covered, we may need to broaden the law's scope.
- Considering our size, we carry very few offenders on our network -- perhaps a few dozen out of hundreds of thousands of business customers. We are working diligently toward the goal that none of them exist on our network.

AT&T COMMUNICATIONS
Adm. Rates and Tariffs
Bridgewater, NJ 08807
Issued: March 10, 1994

TARIFF F.C.C. NO. 2
10th Revised Page 21
Cancels 9th Revised Page 21
Effective: March 11, 1994

2.2. USE

2.2.1. General - WATS may be used for any lawful purpose consistent with its transmission parameters. WATS is furnished for the transmission of voice and non-voice communications. For non-voice communications, typical uses are data, facsimile, signaling, metering, or other similar communications, subject to the transmission capabilities of the service.

2.2.2.

2.2.3. Abuse - The abuse of WATS is prohibited. The following activities constitute abuse:

A. Using WATS to make calls which might reasonably be expected to frighten, abuse, torment, or harass another, or

B. Using WATS in such a way that it interferes unreasonably with the use of the service by others.

C. Using AT&T 800 Service or any other telephone number advertised or widely understood to be toll free, in a manner that would result in (1) the calling party or the subscriber to the originating line being assessed, by virtue of completing the call, a charge for the call; (2) the calling party being connected to a pay-per-call service; (3) the calling party being charged for information conveyed during the call; unless in either (1), (2) or (3) the calling party has a presubscription or comparable arrangement or discloses a credit or charge card number during the call; or (4) the calling party being called back collect for the provision of audio or data information services, simultaneous voice conversation services or products. The Customer must also comply with (a) Titles II and III of the Telephone Disclosure and Dispute Resolution Act (Pub. L. No. 102-556) (TDDRA) and (b) the regulations prescribed by the Federal Communications Commission and the Federal Trade Commission pursuant to those Titles.

2.2.4. Fraudulent Use - The fraudulent use of, or the intended or attempted fraudulent use of, WATS is prohibited. The following activities constitute fraudulent use:

A. Using or attempting to use WATS with the intent to avoid the payment, either in whole or in part, of any of the Company's tariffed charges by:

1. Rearranging, tampering with, or making connections not authorized by this tariff to any WATS service component, or

2. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices, or electronic devices.

B. Using WATS in response to an incompleated LDMTS call, which was not completed in order to circumvent the payment of applicable LDMTS charges.

C. 800 callers using WATS with the intent of gaining access to a WATS Customer's outbound calling capabilities on an unauthorized basis.